



ADMINISTRATIVE DIRECTIVE

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I. **PURPOSE**

This directive summarizes procedures for acquisition, lease, management and disposition of all real property by the City of Tucson.

II. **DEFINITIONS**

- A. **City-Owned Real Property** – City-owned real property is divided into three classes: 1) property currently in public use, 2) property not in use, which is held in reserve for future public needs, and 3) property not in use, which is surplus to the current and future needs of the City of Tucson.
- B. **Community Development Real Property** – Property acquired by the City of Tucson with the express objective of returning part or all of the property to the private sector for development, and property in project areas determined to be suitable for return to the private sector to redevelop for the purpose of furthering the goals and objectives of the City's community development program.
- C. **Surplus Real Property** – All real estate interests not currently in use or planned for use by any City department.
- D. **Real Property Acquisition** – Securing title to land for the City by gift, purchase, plat dedication, exaction as a condition of rezoning, annexation or condemnation.

Types of Property Interests Noted Herein

- 1. **Fee Ownership** – Ownership of the entirety of a property, without limitation. The highest form of property ownership.
- 2. **Leasehold Ownership** – A right of ownership created by virtue of a contract to occupy a property under certain terms and conditions, for a specified period of time.
- 3. **Easement** – A right to use a property of another for a particular purpose, often permanent in nature, even though another party retains ownership.
- E. **Staff Appraisal** – Estimate of market value for specified real property rights made by a qualified, licensed, real estate staff, review or chief appraiser employed by the City of Tucson, using professional appraisal standards in accordance with state statutes.
- F. **Staff Estimate** – Estimate of value by City appraisal staff for acquisitions or dispositions of property rights not to exceed \$2,500, as further defined in Section V, parts B3 and C4.



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- G. **Fee Appraisal** – Estimate of market value for real property made by a qualified, licensed private real estate appraiser under contract with the City, using professional appraisal standards in accordance with state statutes.
- H. **Applicable Appraisal Standards** – All appraisals completed by either a staff or fee appraiser must adhere to all provisions of the Uniform Standards of Professional Appraisal Practice (USPAP), and any relevant sections of Title 28 of the Arizona Revised Statutes.
- I. **Appraisal Review Committee** – A committee composed of City staff members that makes ultimate staff level determination as to minimum acceptable sales price and terms or lease rates of surplus real property and maximum acceptable purchase price and terms or lease rates of particularly complex or sensitive acquisitions.
- J. **Definition of Value When Acquiring Property Under Threat of Condemnation** – The HIGHEST price in terms of money which a property will bring if put for sale in the open market, allowing a reasonable time to find a purchaser who buys with the knowledge of all of the uses to which it is adapted and for which it is capable of being used [Mandl v. City of Phoenix, 41 Ariz. 351, 18 P. 2d 271 (1933)].
- K. **Environmental Review Committee** – A committee composed of City staff members that makes ultimate staff level determination as to environmental acceptability of a property interest to be acquired.
- L. **Definition of Value When Selling Surplus Property or Acquiring Property NOT Under Threat of Condemnation** – The MOST PROBABLE price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus (Rules and Regulations, Federal Register, Volume 55, No. 165, page 34696).
- M. **Lease or Extended Occupancy Agreement**: An agreement by which a possessory interest in City owned land and/or structures is transferred by the City to another person or entity (or conversely, the City receives a possessory interest from another person or entity for non-City owned property) for a specified period of time in return for a specified rental amount or service.
- N. **Temporary Revocable Easement (TRE)**: An agreement, signed by the City Manager, to allow the revocable use of those areas of right of way which are not presently required for transportation purposes.
- O. **Right of Entry**: An agreement, signed by the Real Estate Administrator, allowing a limited specific use of City owned property for a specific purpose, transferring less than a possessory interest in return for payment or services.



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- P. **Public Location Right of Entry for Peddlers**: A 3 month permit, signed by the Real Estate Administrator, allowing peddlers to use City property or right of way under the terms and conditions of the Peddlers Ordinance No. 8129, adopted by Mayor and Council on September 27, 1993.
- Q. **Administrative License Agreement**: A form of lease that transfers a possessory interest in space located in either City Hall or City Hall Annex, that is intended to recover only utility and custodial charges, and may be signed by the City Manager.
- R. **Utility Service Agreement**: An agreement that allows utility companies to enter City owned land to provide utility services to City owned facilities and/or buildings, and is signed by the City Manager pursuant to Resolution No. 16431 adopted October 4, 1993.
- S. **Negotiation** – Conference or discussion to arrange for purchase or sale of real property.
- T. **Condemnation** – Exercise of eminent domain to secure City ownership of specified real property rights.

III. **POLICY**

- A. It is City of Tucson policy to make every effort to complete real property acquisition through negotiated agreement and to minimize hardship or inconvenience to owners and tenants who may be affected by the City's acquisition of real property for the public good.
- B. Acquisition of real property will be at no greater than market value, as defined by applicable law, or as stated in the enabling Resolution to Acquire.
- C. Sales prices of surplus real property sales or exchanges will be at the most probable price.
- D. Surplus real property shall be sold through a public bid process unless it has been determined by the Appraisal Review Committee such property is usable only by the adjacent property owner(s), or the property has been valued at \$5,000 or less, therefore permitting a direct sale to said adjacent owner(s). The sale process may be revised as directed by Mayor and Council on a case by case basis.
- E. When property is sold, adequate legal provision shall be made so that no owner shall be denied legal access to their property as a result of the sale.
- F. All real property dispositions, except community development real property, as noted in Section VI.A.8.a., shall be processed through the Real Estate Division in accordance with all applicable local, state, and federal regulations.



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IV. GENERAL

A. The Appraisal Review Committee

1. The Appraisal Review Committee is hereby composed of the following: Director of Transportation (or the Director's designee), the City Engineer, the Real Estate Administrator, the Chief Appraiser, the City Attorney's Office real estate attorney, a representative from the Office of Economic Development, the City Manager's Office, and a representative from the affected department (if any) as voting members.
2. The Appraisal Review Committee will:
 - review all surplus real property appraisals and return for reappraisal or correction those appraisals deemed insufficient or otherwise incorrect.
 - make ultimate staff level decision regarding appropriateness of disposal or acquisition of any parcel, said determination to be made prior to appraisal of the parcel.
 - set a minimum selling price for all appraised surplus properties ready for disposition or exchange.
 - set a minimum lease rate for all appraised properties ready for lease.
 - review all lease proposals of private property for public purposes for those properties to be leased at an annual rate of \$2,500 or greater.
 - set a maximum purchase price for particularly complex or sensitive acquisitions, for all acquisitions of \$250,000 or greater, and will review other parcels to be acquired as determined by the Director of Transportation.

B. Real Estate Inventory

The Real Estate Division shall maintain a current inventory of City-owned real estate interest, including leased property and maintain files that provide relevant information on each property. Rights-of-way for transportation or drainageways will not be part of this inventory. Property and lease files shall be maintained by the Property Management Section.



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C. Property Management

The Property Management Section will inspect real property within a reasonable time after the City secures the rights to the property. This Section shall be responsible for all demolitions. All interim uses that may require Leases, Temporary Revocable Easements, Rights of Entry, Peddler's Rights of Entry, Administrative License Agreements or Utility Service Agreements will be handled by this Section. Rent collections, property maintenance and/or security of the property until construction or assignment to another department for use will be coordinated by this Section, with oversight of a property maintenance fund. This section will develop all lease analyses required for lease of City-owned property that is leased to non-governmental agencies as well as for lease of privately owned property by the City. Lease analyses of a particularly complex or sensitive nature may require staff or fee appraiser consultation or appraisal, to be determined by the Real Estate Administrator. All lease analyses will be reviewed by a staff or fee appraiser and the recommended lease rate must be acceptable to the reviewer.

D. Cultural Resources

When property is proposed to be sold that contains or may contain known cultural resources such as archaeological finds of significance, Real Estate Staff will, through their on call consultant, obtain further information for Mayor and Council consideration relative to mitigation terms. All City sponsored construction projects and acquisitions on a case by case basis require archaeological clearance from the Real Estate Division.

V. ACQUISITION PROCEDURE

A. General Acquisition Guidelines

1. The Real Estate Division is responsible for closing all real property transactions for the City of Tucson.
2. City departments planning to acquire real property shall, through a written request, contact the Real Estate Division which will coordinate all contacts with the property owners.
3. When real property acquisition is requested, the initiating department shall send to the Real Estate Division a request for acquisition, together with a stated funding source, which shall become part of the acquisition file. Mayor and Council approval of the acquisition shall be sought, preferably by the requesting Department, once the appraisal Review Committee has reviewed the appropriateness of the acquisition. For certain projects requiring less than five separate acquisitions, Mayor and Council approval may be sought upon acceptance of all agreements or upon realization that



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condemnation efforts are required. The Appraisal Review Committee will determine on a case-by-case basis which projects fall under this category.

4. The Real Estate Division shall maintain a close liaison with the requesting department and make every effort to assist the department in its real property acquisition goals.
5. The Real Estate Division shall initiate acquisition procedures in accordance with all applicable regulations. Federally funded acquisitions will be conducted in accordance with applicable federal regulations.
6. If a negotiated settlement cannot be reached, Real Estate staff shall work with the City Attorney's Office to initiate condemnation procedures.
7. The Community Services Department's projects may be excepted from certain aspects of this Administrative Directive, depending upon applicable federal regulations.

B. Specific Acquisition Tasks

- 1.a. **Review of the Title Status:** A preliminary title report shall be obtained for all property to be purchased. Purchases shall be by Warranty Deed unless otherwise approved by the City Attorney's Office.
- 1.b. **Environmental Review:** All properties to be acquired shall be reviewed through a limited pre-Phase I environmental analysis sufficient to gain the approval of the Environment Review Committee (ERC). The ERC may make additional testing requirements a condition of the acquisition.
- 1.c. **Appraisal Review Committee Initial Review:** The Appraisal Review Committee will determine the appropriateness of each acquisition contemplated prior to the appraisal process.
2. **Appraisal of Property:** Prior to purchase, all properties shall be appraised by a licensed staff appraiser or license contract appraiser to determine market value. In cases involving another governmental entity, the requirement of a City sponsored appraisal, in addition to the report provided by that entity, may be waived at the discretion of the Appraisal Review Committee. When the estimated value of the property exceeds \$250,000 or when required by the Director of Transportation, two separate appraisals shall be made.
3. **Establishment of Maximum Purchase Price:** All appraisals or estimates of surplus real property shall be reviewed and approved by the Appraisal Review Committee. Acquisitions shall be reviewed by the Appraisal Review Committee only when the estimated cost to acquire excess \$250,000, or in cases of complex or sensitive acquisitions (as determined by the Director of Transportation), or in cases of a



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proposed lease of private property for City use with a lease rate of greater than \$2,500 per year.

a. By Administrative Process

The Chief Appraiser shall have the option of selecting a nominal value of up to \$2,500 for parcels initially estimated to be worth from \$1.00 to \$2,500, substantiated by appropriate data to be retained in the file.

b. By Appraisal

A fee or staff appraisal, as defined in Section II, of scope sufficient to satisfy any and all applicable local, state or federal regulations must be completed for parcels valued in excess of \$2,500.

4. **Negotiations for Acquisitions**: An offer to purchase the property to be acquired shall be presented to the owner, together with a Summary Statement of Just Compensation. The offer shall be no less than the approved appraised value. Settlement of any acquisition shall be at no greater than 5% over the approved appraised value. Any proposed settlement greater than 5% over the appraised value shall require Mayor and Council approval.
5. **Escrow Process**: Once a settlement to acquire property has been reached, the City shall open an escrow with an escrow company selected from a list of acceptable escrow companies developed through a standard procurement process. The City shall pay all escrow fees directly related to the acquisition, unless otherwise agreed upon by all parties.

VI. **SALE PROCEDURE**

A. **Specific Sales Tasks**:

1. **Circularization of Property; Declaration of Surplus Property**: The Real Estate Division will circularize for comments to all appropriate City Departments, utility companies, and any other interested entities, all proposed property sales, leases or exchanges. All comments will be considered and evaluated prior to final action. If there are no substantial reasons to retain the property, it will be declared surplus by the Real Estate Division. The Division will then notify all involved or affected departments of the declaration. Should there be any conflict concerning the declaration, such conflict will be resolved by the City Manager.
2. **Review of the Title Status**: A preliminary title report shall be obtained for all property to be sold, unless otherwise noted therein. Where title to City-owned real estate is not



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clear, the City Attorney's Office may begin legal proceedings to clear title, or the property may be sold with defective title, provided that a written acknowledgment from the purchaser, specifying the title defect and the purchaser's awareness and acceptance of said title defect, is obtained and kept as a permanent record of the City of Tucson. Every effort will be made to utilize a Special Warranty Deed in cases of sales, but in cases of questionable title, a Quitclaim Deed shall be used. A Quitclaim Deed shall be used in sales of vacated right-of-way, and in such cases, a preliminary title report may or may not be obtained.

- 2.a. **Appraisal Review Committee Initial Review:** The Appraisal Review Committee will determine the appropriateness of each disposition contemplated prior to the appraisal process.
3. **Appraisal of Property:** Prior to sale, all properties shall be appraised by a licensed staff appraiser or licensed contract appraiser to determine market value. When required by the Appraisal Review Committee, due to a parcel being of a sensitive or complex nature, and when the estimated value of the property is anticipated to exceed \$250,000, two separate appraisals shall be made.
4. **Establishment of Minimum Sales Price:** All appraisals or estimates of surplus real property shall be reviewed and approved by the Appraisal Review Committee (whether for sale or lease purposes).
 - a. **By Administrative Process**

The Appraisal Review Committee shall have the option of selecting a nominal value of up to \$2,500 for parcels initially estimated to be worth from \$1.00 to \$2,500, substantiated by appropriate data to be retained in the file.
 - b. **By Appraisal**

A fee or staff appraisal, as defined in Section II, of scope sufficient to satisfy any and all applicable local, state or federal regulations must be completed for parcels valued in excess of \$2,500.
5. **General Sale Procedures:** Surplus real property will be sold according to the following procedures:



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a. Properties valued at \$5,000 or less

Arrangements for sale of these properties shall be made by the Real Estate Division staff through negotiation or auction at not less than the approved appraisal, unless special circumstances warrant a lower selling price as approved by the Appraisal Review Committee.

b. Properties valued at more than \$5,000

The Real Estate Division will advertise these properties at least twice in local newspapers, with the advertisement containing the minimum selling price and requests for offers on a given date no less than thirty (30) days or more than three hundred sixty-five (365) days after first publication. Bids will be submitted to the Real Estate Division to be opened on the specified date.

(Note: The Appraisal Review Committee may recommend that a public auction be held, instead of a sealed bid process, or in conjunction with a sealed bid process, to dispose of the property).

c. Acceptance or Rejection of Offers

On all sealed bid offers, staff shall recommend to the City Manager's Office acceptance of the bid that has the highest net present value, exclusive of real estate commissions. Consideration shall be given to contingencies when evaluating bids, possibly resulting in a recommendation to accept a lower economic return in lieu of accepting an offer with contingencies. If the City Manager's Office elects to forward a bid to Mayor and Council for consideration, the Mayor and Council shall have at least thirty (30) days and no more than seventy-five (75) days to accept or reject the offer. If the offer is accepted, Mayor and Council shall adopt the appropriate Ordinance. In the event that no acceptable offers are received, the Real Estate Division staff shall readvertise the property at the same or at a reduced minimum sale price, subject to prior approval of the Appraisal Review Committee, or shall continue to market the property attempting to secure an offer no lower than the approved appraised value.

- 6. Apportionment of Sales Costs:** The City of Tucson shall offer to pay a brokerage fee of 5%, under certain limiting conditions, and may pay title insurance costs, half the escrow fees, and other applicable seller's costs.
- 7. Mayor and Council Authorization:** The sale of any surplus real property shall be authorized by Ordinance passed by the Mayor and Council by motion on the specific property to be offered for sale.
- 8. Exceptions:**



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- a. Community development real property acquired for the Department of Community Services shall be sold in accordance with all applicable federal regulations and shall be processed under the direction of the Community Services Department.
- b. Notwithstanding these rules and regulations, and except for community development property, the Mayor and Council may dispose of real property by other legal methods.

VII. LEASE OF CITY-OWNED PROPERTY

GENERAL COMMENTS: Charter amendments approved by the Mayor and Council September 5, 1989 allow for the direct lease of City-owned property without competitive bids if Mayor and Council determine that such a lease is in the best interest of the public. Standard procedure for the lease of City-owned property requires a competitive bid in response to a public solicitation. The Property Management Section shall perform all required lease analyses, as noted in Section IV.C. Any analysis required for determining a rate of return for rights of entry will be performed by the Property Management Section, in concert with the Appraisal Section. The final determination as to rate for a right of entry will be made by the Real Estate Administrator. The Real Estate Division will coordinate all leasing activities as follows:

A. Leases to Existing Occupants at Time Property Was Purchased

If City owned property was purchased by City under the threat of condemnation, commercial entities occupying property at the time of City purchase are permitted to lease the property on a month-to-month basis at 50% of the fair market lease rate for the first 6 months, and at the prevailing fair market rate thereafter. Residential occupants may lease the property at no cost for the first 90 days, at the prevailing market rate thereafter. In these instances, the Extended Occupancy Agreement may be executed by the Real Estate Administrator or Real Estate Negotiations Coordinator.

If after the existing occupants vacate the property, the property is not immediately needed for a public improvement that would require demolition, and if it is determined to be in the best interest of the city or the community, the property may be leased to new tenants as described in the following sections.



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B. Lease of Improved Residential Properties by Community Services Department

Unoccupied residential property may be used by the Community Services family Rental Program. The Community Services Department shall have the first opportunity to use this type of property for that (or a similar) program.

If the property is found to be unsuitable for use in the Family Rental Program, the Community Services department will notify non-profit human service agencies by letter that residential property is available for lease. Agencies interested in using the property will be asked to submit a proposal describing their intended use of the property and proposed rental rate. The City will only consider proposals for lease at a rate greater than or equal to 10% of the fair market lease rate (to be less than \$250/year) and will not consider a lease term of greater than five years nor more than two options to renew of up to ten total additional years.

Based upon review of the submitted proposal(s), zoning compliance, viability of the proposal(s) and return/benefit to the City, the Community Services Department along with the Real Estate Division will make a recommendation, through the City Manager, to Mayor and Council for award of a lease.

C. Lease of Other Properties

Lease or market for sale vacant or improved commercial property or vacant and unimproved residential property to commercial or residential users at market value. However, if the City is not able to attract interest from commercial or residential concerns for the lease of these properties, and if the property is determined to be surplus to the City's needs, the property must first be offered for sale to the general public pursuant to this Administrative Directive. Marketing time for each property shall be commensurate with standard private sector marketing timelines, on a case by case basis.

If the City is still unable to attract interest from the general public, Real Estate Division will notify the Community Services department. The Community Services Department will notify non-profit human service agencies by letter that commercial property is available for lease. Agencies interested in using the property will be asked to submit a proposal describing their intended use of the property and proposed rental rate. The City will only consider proposals for lease at a rate greater than or equal to 10% of the fair market lease rate (to be no less than \$250/year) and will not consider a lease term of greater than five years nor more than two options to renew of up to ten total additional years.

Real Estate Staff will analyze the lease terms and determine the appropriateness of renewal prior to acceptance of any options. Based upon review of submitted proposal(s), zoning compliance, viability of the proposal(s) and return/benefit to the City, the



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Community Services department along with the Real Estate Division will make a recommendation to Mayor and Council for award of a lease.

D. Discovery of Trespassers

When trespassers are discovered on vacant property, the trespassers will be given an opportunity to promptly remove any materials from City property. If no removal occurs, Real Estate staff will assess an immediate \$250 per month trespass fee against the trespasser until such time as a full circularization and appraisal process is completed, and a decision as to the eventual disposition of the property is determined.

E. Auditing Provisions

Provisions will be made within any non-profit agency lease to allow for the auditing of that non-profit organization. These provisions will be included in any new non-profit lease, and as the leases come up for renewal and are renegotiated. The Property Management Section shall be responsible for ensuring that the auditing provisions are included in all leases.

F. Clearances

Lessees of City property shall obtain archaeological and/or historical clearance before any excavation, remodeling, or demolition is performed on leased City property.

VIII. LEASE OF AVAILABLE SPACE WITHIN CITY HALL AND CITY HALL ANNEX

The Administrative License Agreement adopted November 23, 1992, shall be used, in cases of a non-profit lessee, with the provision of a utility and custodial charge to reflect actual cost at time of agreement. For-profit entities shall pay the prevailing market rate.

Upon receiving a solicitation from a non-profit entity, and if such space is available, the Community Services Department and the Real Estate Division will be notified, and Community Services in turn will notify non-profit human service agencies by letter that space in either City Hall or City Hall Annex is available for lease.

Agencies interested in using the property will be asked to submit a proposal describing their intended use of the property and proposed rental rate and lease terms, i.e. renewal options, incentives, tenant improvements, etc.

Based upon review of submitted proposal(s), zoning compliance, viability of the proposal(s) and return/benefit to the City, the Community Services Department along with the Real Estate Division will make a recommendation to the City Manager forward of a lease.



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IX. LEASE OF PRIVATE PROPERTY FOR PUBLIC USE

- A. All departments which require the use of privately owned property through a lease shall submit, in writing, a request to the Real Estate Division outlining all requirements of the lease, i.e. location, size, parking, hours of operation, etc.
- B. A public solicitation process shall be employed which may include letters to brokers and advertisements in local newspapers. The level of solicitation shall be determined on a case by case basis.
- C. All property listings and offers for lease shall be routed to the Real Estate Division. A review will be performed by Property Management Staff to determine if the lease rate offered is reasonable and if the particular property meets any departmental needs. A recommendation by Property Management shall be reviewed by a staff appraiser, and if approved, forward to the requesting Department for review. If the requestor accepts the recommended lease proposal, the lease is reviewed by the Appraisal Review Committee (if the lease rate exceeds \$2,500 per year) and if approved submitted to the City Manager's Office for execution. Leases at rates less than \$2,500 per year will, if accepted by the requestor, be forwarded directly to the City Manager's Office for execution. In either case, execution of such a lease is not subject to Mayor and Council approval.
- D. If a specific property is determined to be unique in location and amenities, the Purchasing Agent may determine a sole source is acceptable, thereby eliminating the need for competitive selection process. Should the competitive selection process not be used, the lease may still be executed by the City Manager's Office, and would not be subject to Mayor and Council approval.

X. RESPONSIBILITY FOR REVIEW

The Deputy City Manager shall review this directive in May of each year, or as necessary.

AUTHORIZED

CITY MANAGER